

# Disciplinary and Other FINRA Actions

## Firms Fined, Individuals Sanctioned

**Fortune Financial Services, Inc. (CRD® #42150, New Brighton, Pennsylvania) and Brian Lee Daniels (CRD® #1213561, Registered Principal, New Brighton, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent (AWC) in which the firm was censured and fined \$125,000 and Daniels was fined \$25,000 and suspended from association with any FINRA® member in any principal capacity for nine months. The firm was prohibited for 90 days, commencing five business days after issuance of the AWC, from registering any associated persons, except for individuals who perform only compliance and/or supervisory duties. Termination of this prohibition is contingent upon satisfaction of the following undertakings: The firm shall, within 10 business days after the end of the 90-day prohibition, certify in writing to FINRA that it complied with the prohibition, and, within 90 days of the issuance of the AWC, the firm shall certify to FINRA in writing that the firm currently has systems and procedures in place that are reasonably designed to achieve compliance with laws, rules and regulations concerning the preservation of electronic mail communications.

Without admitting or denying the findings, the firm and Daniels consented to the described sanctions and to the entry of findings that the firm, acting through Daniels, failed to maintain and preserve all of its business-related electronic communications. The findings stated that the firm did not have a system, written procedures or policies relating to the retention of electronic communications in place and, as a result, failed to maintain and preserve electronic communications. The findings stated that the firm, acting through Daniels, increased the number of registered representatives associated with the firm and failed to file an application with FINRA and obtain FINRA's approval for the material increase in sales personnel. The findings also stated that the firm, acting through Daniels, conducted business at locations that constituted branch offices that were not registered with FINRA. The findings also included that the firm, acting through Daniels, failed to establish and maintain a supervisory system, and failed to establish, maintain and enforce written supervisory procedures that were reasonably designed to achieve compliance with all applicable laws, rules and regulations regarding business-related electronic communications, material business expansions, proper registration of branch offices, a principal approval of advertisements prior to use, and maintaining records of the firm's Web sites and advertisements.

Daniels' suspension is in effect from October 5, 2009, through July 4, 2010. (FINRA Case #2008011697201)

## Reported for November 2009

FINRA has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

**Wadsworth Investment Co., Inc. (CRD #5844, Wallingford, Connecticut) and William Frederick Wadsworth (CRD #456251, Registered Principal, Wallingford, Connecticut)** submitted an Offer of Settlement in which the firm was censured, fined \$100,000, of which \$77,250 was jointly and severally with Wadsworth, and required to hire an independent consultant to review its policies, systems, procedures (written and otherwise) and training related to its violations of federal securities laws, FINRA and MSRB rules, and implement the consultant's recommendations. Wadsworth was suspended from association with any FINRA member in any capacity for one month, and suspended from association with any FINRA member in any principal capacity for one year.

Without admitting or denying the allegations, the firm and Wadsworth consented to the described sanctions and to the entry of findings that they permitted an individual to act as an unregistered principal and permitted individuals to be registered as General Securities Representatives or Investment Company and Variable Contracts Products Representatives through the firm without being active in the firm's securities business. The findings stated that the firm and Wadsworth sent written communications to customers and prospective customers containing language that failed to provide a sound basis for evaluating the claims within the communications, and that omitted material information and/or contained unwarranted statements. The findings also stated that the firm, acting through Wadsworth, failed to establish and maintain a supervisory system and written supervisory procedures reasonably designed to achieve compliance with applicable securities laws and regulations; conduct annual reviews of any of the business in which the firm engaged and review registered representatives' business-related email correspondence with customers; establish any written procedures providing for the review of its registered representatives' electronic correspondence; and designate and specifically identify at least one principal to FINRA who would establish, maintain and enforce a system of supervisory control policies and procedures, and failed to establish, maintain and enforce written supervisory control policies and procedures. The findings also included that the firm failed to implement anti-money laundering compliance procedures, including independent testing and provide training, and failed to enforce the Customer Identification Procedures.

FINRA found that the firm, acting through Wadsworth, failed to obtain required information on new account forms, and on mutual fund and variable annuity applications. FINRA also found that the firm and Wadsworth failed to record a general securities principal's approval on mutual fund and variable annuity applications, completed and signed a materially inaccurate FINRA Information Request form and provided inaccurate information to FINRA staff. In addition, FINRA determined that the firm, acting through Wadsworth, maintained forms of various types that were blank except for customers' signatures. FINRA further found that the firm filed inaccurate Financial and Operational Combined Uniform Single (FOCUS™) reports setting forth the firm's net capital position that was accurate by failing to maintain accurate financial books and records. In addition, FINRA found that the firm, acting through Wadsworth, did not file an application with FINRA for approval of an ownership change until after the ownership change took place. Further, FINRA found that the firm failed to retain electronic communications, failed to provide written confirmations to customers at or before the completion of securities transactions,

acted as an unregistered municipal securities broker-dealer, executed municipal securities transactions without creating and retaining order tickets to properly record the transactions, and failed to report municipal securities trades to the MSRB.

The suspension in any capacity is in effect from October 19, 2009, through November 18, 2009, and the suspension in any principal capacity is in effect from October 19, 2009, through October 18, 2010. (FINRA Case #2006003806202)

## Firms Fined

**Anderson & Strudwick, Incorporated (CRD #48, Richmond, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and ordered to pay \$966.56, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it accepted and held customer market orders, traded for its own account at prices that would have satisfied the customer market orders, and failed to immediately thereafter execute the customer market orders. The findings stated that, for some orders, the firm failed to immediately thereafter execute the customer market orders up to the size and at the same price at which it traded for its own account or at a better price. (FINRA Case #2008013655601)

**BGC Financial, L.P. (CRD #19801, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities to the FINRA/NASDAQ Trade Reporting Facility® (TRF™). The findings stated that the firm failed to report the correct symbol indicating the capacity in which it executed transactions in reportable securities to the TRF, and also failed to report the correct execution time for transactions in reportable securities. (FINRA Case #2008014174701)

**BMO Nesbitt Burns Trading Corp, S.A. (CRD #121291, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$25,000 and required to revise its written supervisory procedures regarding recordkeeping, trading halts, trade reporting, the Order Audit Trail System (OATS™) accuracy, order marking and locate requirements, and designation of the principal responsible for its supervisory system and procedures. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted inaccurate, incomplete or improperly formatted data to OATS, in that reports omitted or incorrectly included special handling codes. The findings stated that the firm failed to transmit Reportable Order Events (ROEs) to OATS. The findings also stated that the firm executed short sale orders and failed to properly mark the orders as short. The findings also included that the firm accepted short sale orders in equity securities from another person, or effected short sales in equity securities for its own account, without borrowing the security or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with Securities and Exchange Commission (SEC) Rule 203(b)(1) of

Regulation SHO. FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing recordkeeping, trading halts, trade reporting, OATS accuracy, order marking and locate requirements, and designation of the principal responsible for its supervisory system and procedures. **(FINRA Case #2008013605201)**

**Broad Street Securities, Inc. (CRD #36101, Plantation, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm, acting through an individual, failed to establish and maintain a system to supervise a registered representative who the firm employed. The findings stated that the firm and an individual failed to establish procedures addressing heightened supervision and failed to implement heightened supervision of the registered representative. **(FINRA Case #2006006615402)**

**Canaccord Adams Inc. (CRD #1020, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide written notification disclosing to its customers its correct capacity in transactions; and when it acted as principal for its own account, failed to provide written notification disclosing to its customers that it was a market maker in each such security. The findings stated that the firm accepted short sale orders in equity securities from another person, or effected short sales in equity securities for its own account, without borrowing the security or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO. **(FINRA Case #2008013221101)**

**Corporate Investments Group, Inc. (CRD #38690, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, on numerous business days, it failed to transmit all of its ROEs to OATS that it was required to transmit. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. **(FINRA Case #2007009924601)**

**Cumberland Brokerage Corporation (CRD #13409, Philadelphia, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,500 and ordered to pay \$14,679.57, plus interest, in restitution to customers. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, in pairs of transactions, it purchased municipal securities for its own account from customers and/or sold municipal securities for its own account to customers at an aggregate price (including any markdown or markup) that was not fair and reasonable, taking into consideration all relevant factors, including the best judgment of the broker, dealer or municipal securities dealer as to the fair market value of the securities at the time of transaction

and of any securities exchanged or traded in connection with the transaction, the expense involved in effecting the transaction, the fact that the broker, dealer or municipal securities dealer is entitled to a profit, and the total dollar amount of the transaction. (FINRA Case #2006004978101)

**Fagenson & Co., Inc. (CRD #1781, New York, New York)** submitted a Letter of Acceptance, Waiver and consent in which the firm was censured, fined \$22,500 and required to revise its written supervisory procedures regarding short sale trade input, short sale borrowing and delivery, order handling and best execution. Without admitting or denying the findings, the firm consent to the described sanctions and to the entry of findings that it failed to report to the OTC™ Reporting Facility (OTCRF) the correct symbol indicating whether transactions were buy, sell, sell short or cross for transactions in reportable securities, and failed to report the correct symbol indicating whether it executed transactions in reportable securities in a principal or agency capacity. The findings stated that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price. The findings also stated that the firm failed to transmit ROEs to OATS and transmitted execution reports that contained inaccurate, incomplete or improperly formatted data. The findings also included that the firm accepted short sale orders in an equity security from another person, or effected a short sale in an equity security for its own account, without borrowing the security, or entering into a *bona fide* arrangement to borrow the security; or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due; and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short sale trade input, short sale borrowing and delivery, order handling and best execution. (FINRA Case #2008012326601)

**Firsttrade Securities Inc. (CRD #16843, Flushing, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities to TRACE within 15 minutes of the execution time. The findings stated that the firm failed to report the correct trading execution time for transactions in TRACE-eligible securities to TRACE, and its supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning trade reporting of TRACE-eligible securities. (FINRA Case #2008013618101)

**Investment Professionals, Inc. (CRD #30184, San Antonio, Texas)** submitted an Offer of Settlement in which the firm was censured, fined \$40,000 and required to amend or supplement its written supervisory procedures to adopt additional procedures designed to prevent unauthorized changes of address for customer accounts and to prevent changes of address that were not in compliance with the firm's prohibitions, restrictions, procedures or policies. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain supervisory systems and failed to establish, maintain and

enforce written procedures reasonably designed to achieve compliance with applicable securities laws and regulations. **(FINRA Case #2007008650302)**

**Legend Merchant Group, Inc. (CRD #5155, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$150,000 and required to certify that it has reviewed the adequacy of its procedures regarding recording and maintaining required memoranda of customer orders, including, but not limited to, times of receipt of orders; ensuring that order memoranda are accurate, including, but not limited to, designations of orders as solicited or unsolicited; preservation and review of electronic correspondence; each area of the firm's business; ensuring, in connection with transactions passing through the firm's inventory account that sales charges are fair and reasonable based on the firm's contemporaneous costs, the quality of the executions of customer orders, including the timeliness of executions, and that the firm correctly reports its trading capacity to the TRF; clear delegation of supervisory responsibilities and reviews to ensure the supervisors are performing their assigned responsibilities, including, but not limited to, with respect to trading, including supervisory review of order tickets, order entry, and best execution, review of electronic correspondence, including, but not limited to, instant messages, and branch office and non-branch office activities. Furthermore, the firm was required to certify that it has established systems and procedures reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning the aforementioned activities.

Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to record and maintain the time of receipt for customer orders on brokerage order memoranda, and mismarked trades as solicited or unsolicited. The findings stated that the firm did not preserve instant message communications in connection with the firm's securities business. The findings also stated that the firm failed to establish, maintain and enforce a supervisory system, including written supervisory procedures, reasonably designed to achieve compliance with the applicable securities laws, regulations and FINRA rules with respect to supervision of registered representatives' and other associated persons' activities; trading, including order tickets, order entry, best execution and trade review; review and retention of instant messages; and branch office activities. The findings also included that the firm had a deficient supervisory system regarding trades passing through the firm's inventory account, and was unable to readily identify and match offsetting transactions related to particular customer orders requiring multiple executions, and consequently, was unable to compare, and did not compare, the customer's price to the firm's costs to ensure that any markups or markdowns were fair and reasonable. FINRA found that since the firm did not capture and record when orders were received, it was unable to adequately review the quality of the executions of its customer orders. FINRA also found that the firm failed to ensure that it accurately reported its trading capacity to the TRF. **(FINRA Cases #2005003647901/ #2007008692901)**

**Morgan Stanley & Co., Incorporated (CRD #8209, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$55,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information



regarding transactions effected in municipal securities to the Real-time Transaction Reporting System (RTRS) within 15 minutes of trade time to an RTRS Portal. The findings stated that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, and failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE. The findings also stated that the firm failed to show the correct entry time on brokerage order memoranda. **(FINRA Case #2007010719701)**

**OES Brokerage Services, LLC (CRD #132351, Newark, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted numerous New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report occurred prior to the receipt of the order, and the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. **(FINRA Case #2007009285501)**

**OTA LLC (CRD #25816, Purchase, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$25,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it erroneously transmitted execution reports to OATS. The findings stated that the firm transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data. The findings also stated that the firm transmitted New Order Reports and related subsequent reports to OATS where the timestamp for the related subsequent report occurred prior to the receipt of the order, and the OATS system was unable to create an accurate, time-sequenced record from the receipt of the order through its resolution. **(FINRA Case #2008012235401)**

**Paramount BioCapital, Inc. (CRD #29795, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to promptly file documents and information relating to the shelf-offerings of issuers with FINRA's Corporate Financing Department. The findings stated that the firm sold shares in the public offerings of the stock of issuers without first obtaining a required no objections letter from FINRA. The findings also stated that the firm failed to engage a qualified independent underwriter to perform due diligence and recommend the offering price during its participation in public offerings in which the firm and its associated persons had sufficient holdings of the common equity of the issuers to constitute a presumptive conflict of interest. **(FINRA Case #2007011942201)**

**Pulse Trading, Inc. (CRD #104022, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$12,500 and required to revise its written supervisory procedures regarding OATS reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted ROEs to OATS that were rejected for context or syntax errors, but the firm failed to repair many of the rejected ROEs within the required five business days and failed to repair others. The findings stated that the

firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning OATS reporting. **(FINRA Case #2007007758201)**

**Santander Securities Corporation (CRD #41791, Guaynabo, Puerto Rico)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, and reported transactions in TRACE-eligible securities that it was not required to report. **(FINRA Case #2008013603501)**

**Scott & Stringfellow, LLC (CRD #6255, Richmond, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$72,500 and required to revise its written supervisory procedures regarding the date that each designated supervisory personnel assumed responsibility for each area of supervision, as well as registration and TRACE. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to register individuals who acted in a supervisory capacity with respect to its investment banking or securities business in the appropriate registration category. The findings stated that the firm failed to provide written notification disclosing to its customers either its correct capacity in transactions or that transactions were executed at an average price. The findings also stated that the firm made publicly available a report on its routing of non-directed orders in covered securities that contained incorrect information as to routing venues. The findings also included that the firm's supervisory procedures failed to include the date that each designated supervisory personnel assumed responsibility for each area of supervision, and its supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning registration and TRACE.

FINRA found that the firm made available a report on the covered orders in national market system securities that it received for execution from any person which included incorrect information. FINRA also found that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, and incorrectly reported long sale transactions as short sale transactions to the NASDAQ Market Center. **(FINRA Case #2006004160701)**

**Seton Securities Group, Inc. (CRD #18044, Union Beach, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$27,500 and required to revise its written supervisory procedures regarding order handling, SEC Rules 605 and 606, anti-intimidation and coordination, sales transactions, OATS-time clock synchronization and OATS. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted reports to OATS that contained inaccurate, incomplete or improperly formatted data, in that the reports failed to properly denote the member type. The findings stated that the firm made publicly available a report on its routing of non-directed orders in covered securities that included incorrect information as to the firm's order routing. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations



and FINRA rules addressing order handling, SEC Rules 605 and 606, anti-intimidation and coordination, sales transactions, OATS-time clock synchronization and OATS. FINRA found that the firm failed to provide documentary evidence that it performed the supervisory reviews set forth in its written supervisory procedures concerning registration and qualifications of supervisory personnel. **(FINRA Case #2007009229101)**

**SG Americas Securities, LLC (CRD #128351, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit last sale reports of transactions in NASDAQ securities that it was required to report to the NMC. The findings stated that the firm transmitted numerous Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order in NASDAQ due to inaccurate, incomplete or improperly data, and failed to timely report numerous ROEs to OATS. The findings also stated that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in designated securities that it was required to report to the TRF, and failed to report the correct execution time in last sale reports of transactions in designated securities to the TRF. The findings also included that the firm failed to accept or decline most of the transactions in reportable securities in the OTCRF within 20 minutes after execution, when it was obligated to accept or decline them. **(FINRA Case #2006006488401)**

**TD Securities (USA) LLC (CRD #18476, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$17,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time, failed to report the correct trade execution time for transactions in TRACE-eligible securities to TRACE, and failed to show the correct execution time on brokerage order memoranda. **(FINRA Case #2008012762701)**

**Terra Nova Financial, LLC (CRD #37761, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$22,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it submitted incorrect short interest position reports to FINRA, in that it reported short interest positions that should not have been reported as such. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules concerning short interest reporting. The findings also stated that the firm transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm due to inaccurate, incomplete or improperly formatted data. **(FINRA Case #2007007701801)**

**Tocqueville Securities L.P. (CRD #26001, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$10,000 and required to revise its written supervisory procedures regarding municipal securities trade reporting. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to report information

regarding transactions effected in municipal securities to the RTRS within 15 minutes of the trade time to an RTRS Portal. The findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning municipal securities trade reporting. (FINRA Case #2008014973201)

## Individuals Barred or Suspended

**Donald Louis Andersen (CRD #4705, Registered Representative, Eden Prairie, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Andersen consented to the described sanctions and to the entry of findings that he exercised discretion in customers' accounts without first having obtained written customer authorization that his firm would find acceptable and, without the customer's written authorization, exercised time and price discretion after the business day on which the customer granted discretion.

The suspension was in effect from October 19, 2009, through October 30, 2009. (FINRA Case #2007010593701)

**Alexander Andujar (CRD #5307459, Associated Person, North Bergen, New Jersey)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Andujar failed to respond to FINRA requests for information. The findings stated that Andujar willfully failed to disclose material information on his Uniform Application for Securities Industry Registration or Transfer (Form U4). (FINRA Case #2007009001001)

**Joseph Wilbur Richard Ashwill (CRD #8189, Registered Supervisor, Long Beach, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five months. Without admitting or denying the findings, Ashwill consented to the described sanctions and to the entry of findings that he altered a customer's trust document to conceal that he was one of the customer's designated beneficiaries and then submitted the required document to his member firm. The findings stated that Ashwill made material misstatements on his firm's annual compliance questionnaire by failing to disclose that he received gifts from the customer.

The suspension is in effect from November 2, 2009, through April 1, 2010. (FINRA Case #2007009443301)

**Alex Amner Borukhov (CRD #4389429, Registered Representative, Brooklyn, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Borukhov failed to appear for a FINRA on-the-record interview. The findings stated that Borukhov failed to timely amend his Form U4 to disclose material information and willfully failed to disclose material information on his Form U4. The findings also stated that Borukhov engaged in excessive and unsuitable trading in customer accounts. (FINRA Case #2008012444301)

**John Carson Brake Sr. (CRD #3030427, Registered Representative, Vinton, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 15 business days. Without admitting or denying the findings, Brake consented to the described sanctions and to the entry of findings that he shared commissions with an unregistered person, a former employee of his member firm who asked him to submit variable annuity purchase applications on his behalf for execution through the firm. The findings stated that Brake, without meeting or speaking with the prospective customer purchasers, signed the applications, which caused them to reflect that he was the representative for the purchases, and then submitted the applications to the firm. The findings also stated that Brake received commissions totaling approximately \$9,000 for the purchases and paid approximately \$7,850 of the commission to the unregistered person.

The suspension was in effect from October 19, 2009, through November 6, 2009.  
(FINRA Case #2009017202601)

**William Paul Brewer Jr. (CRD #2827002, Registered Representative, Greensboro, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. The fine must be paid either immediately upon Brewer's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Brewer consented to the described sanctions and to the entry of findings that he recommended that certain customers use funds from existing variable life insurance policies to purchase new policies although his member firm prohibited this type of activity, known as internal replacement. The findings stated that Brewer filled out a replacement disclosure form for each transaction and did not properly identify any of the transactions at issue as replacements, thereby causing his firm's books and records to be inaccurate.

The suspension is in effect from October 19, 2009, through December 18, 2009.  
(FINRA Case #2006006901102)

**Dennis Brown (CRD #3022551, Registered Representative, Springfield, Massachusetts)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Brown failed to respond to FINRA requests for information. The findings stated that Brown engaged in outside business activities without providing written notice to his member firm. (FINRA Case #2007010450601)

**Rodney Lee Cantrell (CRD #1303831, Registered Representative, Washington, North Carolina)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured, fined \$10,000 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Cantrell consented to the described sanctions and to the entry of findings that he caused unapproved advertisements that did not comply with FINRA's standards for communications to be broadcast to the public. The findings stated that Cantrell failed to file with FINRA, within 10 days of first use, an advertisement concerning mutual

funds and failed to include required references to his member firm's Securities Investor Protection Corporation (SIPC) membership.

The suspension was in effect from October 19, 2009, through October 30, 2009.  
(FINRA Case #2007009405901)

**Derek Allan Chowen (CRD #4286245, Registered Representative, Charlevoix, Michigan)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Chowen consented to the described sanction and to the entry of findings that he placed customer orders to sell mutual fund positions and purchase a different mutual fund without the customer's knowledge or consent, and without written or oral authorization to exercise discretion. The findings stated that Chowen exercised discretion pursuant to verbal authority in customers' accounts without his member firm's prior written authorization and prior written acceptance of the accounts as discretionary. The findings also stated that Chowen failed to respond to FINRA requests for information and documents. (FINRA Case #2008012409101)

**Jessica Ann Condosta (CRD #4506532, Registered Representative, Olmsted Township, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Condosta's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Condosta consented to the described sanctions and to the entry of findings that she engaged in an outside business activity, for compensation, and failed to provide prompt written notice to her member firm.

The suspension was in effect from October 5, 2009, through November 3, 2009.  
(FINRA Case #2008012820401)

**Walter Lee Coulter II (CRD #2960749, Registered Representative, Riverside, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Coulter's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Coulter consented to the described sanctions and to the entry of findings that he failed to provide FINRA with a complete response to requests for information and documents.

The suspension is in effect from September 8, 2009, through September 7, 2011.  
(FINRA Case #2007008275501)

**Ruben A. Cruz aka Ruben Cruz-Alvarez (CRD #5070572, Registered Representative, Avondale, Arizona)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Cruz failed to respond to FINRA requests for information. The findings also stated that Cruz failed to disclose material information on his Form U4. (FINRA Case #2008014623501)

**Alfred Thomas Dowe Jr. (CRD #2952411, Registered Representative, Roanoke, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Dowe consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008013270801)**

**Stephen John Doyle (CRD #501148, Registered Representative, Brewster, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Doyle failed to respond to FINRA requests for information and willfully failed to disclose material information on his Form U4. **(FINRA Case #2008012812301)**

**Clemenceau Dumont (CRD #2110500, Registered Representative, Roselle, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Dumont consented to the described sanction and to the entry of findings that he received \$6,354.71 in insurance premiums from customers but failed to deposit the payments into his Agent Group Banking account as his member firm required and never remitted the outstanding payments to the firm. The findings stated that Dumont failed to answer questions during his FINRA on-the-record interview. **(FINRA Case #2008013671301)**

**Amanda Michelle Fleites (CRD #4884432, Registered Representative, Urbandale, Iowa)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Fleites failed to respond to FINRA request for information. The findings stated that Fleites willfully failed to disclose material information on her Form U4. **(FINRA Case #2008013621001)**

**William Ambos Gill (CRD #221678, Registered Representative, Shaker Heights, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Gill consented to the described sanction and to the entry of findings that he withdrew \$13,000 from a customer's securities account without the customer's knowledge or permission by having checks drawn on the account payable to the customer. The findings stated that the checks were sent to Gill's office, where he signed the customer's name on the receipt acknowledging delivery, signed the customer's name on the reverse side of the checks and made each check payable to himself. The findings also stated that Gill signed his own name beneath the customer's purported endorsement and then deposited the funds into his personal checking account. **(FINRA Case #2009016629001)**

**Stephen Paul Grantham (CRD #4673736, Registered Representative, Tulsa, Oklahoma)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Grantham consented to the described sanction and to the entry of findings that he converted \$11,663.76 of customers' funds and misappropriated the funds by withdrawing the monies from Individual Retirement Accounts (IRAs) at an affiliate bank of his member firm. The findings stated that, during the firm investigation and the subsequent interview, Grantham confessed through a prepared and signed written

statement regarding the thefts informing that he had misappropriated the funds, converted the funds to his personal use and acknowledged that the withdrawals were made without the customers' consent. The findings also stated that Grantham failed to respond to FINRA requests for information. **(FINRA Case #2008012871301)**

**Jason Edward Greenspon (CRD #5474906, Registered Representative, West Des Moines, Iowa)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Greenspon consented to the described sanction and to the entry of findings that he failed to disclose material facts on a Form U4. The findings stated that Greenspon failed to provide a written response to FINRA's requests for information. **(FINRA Case #2009017219901)**

**Kerry Lamont Hairston (CRD #2804353, Registered Representative, Buford, Georgia)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. The fine must be paid either immediately upon Hairston's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hairston consented to the described sanctions and to the entry of findings that he engaged in outside business activities, for compensation, without given prompt written notice to his member firm.

The suspension was in effect from October 5, 2009, through November 3, 2009. **(FINRA Case #2008014418801)**

**Craig William Hansen (CRD #5102425, Registered Representative, Fords, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000, ordered to pay \$1,000, plus interest, in restitution to a customer, and suspended from association with any FINRA member in any capacity for one month. The fine and restitution must be paid either immediately upon Hansen's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Hansen consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction for compensation, and failed to provide prior written notice to, or obtain prior written approval from his member firm.

The suspension was in effect from September 21, 2009, through October 20, 2009. **(FINRA Case #2009017804701)**

**Ronald Edward Hardy Jr. (CRD #2668695, Registered Representative, Port Jefferson Station, New York)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hardy falsified new account records that the customers did not authorize and, in some cases, contained extensive false information including inaccurate birth dates, social security numbers and financial information. The findings stated that Hardy submitted these new account forms to his member firm, causing its required records to be inaccurate. The findings also stated that Hardy engaged in unauthorized transactions in customer accounts. **(FINRA Case #2005001502703)**



**Jesse John Hinkley (CRD #5098659, Registered Representative, New Fairfield, Connecticut)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Hinkley made material misrepresentations and omissions to customers and failed to respond to FINRA requests for testimony. The findings stated that Hinkley engaged in improper telephone solicitations of potential customers in connection with the offer of securities, and made untrue statements of material facts and omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading. The findings also stated that Hinkley used unapproved, misleading telemarketing scripts in connection with the solicitations. The findings also included that Hinkley failed to respond to requests from FINRA to appear for testimony. **(FINRA Case #2007007358602)**

**David Michael Isabella (CRD #2515834, Registered Representative, Hilton, New York)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Isabella consented to the described sanction and to the entry of findings that he fraudulently induced customers, most of whom were retired or nearing retirement, to entrust him with their retirement savings and purchase securities from him by promising that he could achieve sustained annual rates of return of at least 10 percent each and every year, which would allow for consistent annual withdrawal, ranging from 7 percent to 13.5 percent from their investment portfolios without depletion of principal. The findings stated that many of the customers relied on Isabella's fraudulent representations when determining to invest their retirement funds with him, and based their decision to retire sooner than they had otherwise planned, at least in part, upon the representation that they would receive enough monthly income from their retirement accounts to live on for the rest of their lives. The findings also stated Isabella made unsuitable investment recommendations and effected transactions in customers' accounts without having reasonable grounds for believing that the transactions were suitable for the customers in view of the over-concentration in equities, the related fees incurred, and in light of the customers' financial situations, investment objectives and needs. The findings also included that Isabella's promised returns and withdrawal rates proved to be unsustainable, resulting in the depletion of the customers' retirement savings and forcing some to return to employment.

FINRA found that Isabella falsified records maintained by his member firm concerning his customers' financial situations and goals, and as a result, the customers did not receive the firm's promised benefit of having an investment manager selected based on their individual needs and financial situations. FINRA also found that Isabella inappropriately obtained confidential contact and employment information about a company's employees, without their knowledge, authorization or consent, from personnel in the company's human resources and other departments, and rewarded the contacts for their assistance with gifts. In addition, FINRA determined that Isabella used a false professional designation on correspondence with customers. FINRA further found that Isabella provided false testimony during a FINRA on-the-record interview. **(FINRA Case #2006005132303)**

**William Alson Johnson (CRD #1518066, Registered Representative, Prospect, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Johnson consented to the described sanction and to the entry of findings that he failed to observe standards of commercial honor and just and equitable principles of trade. The findings stated that Johnson opened a joint account for an elderly customer and Johnson's acquaintance, funded entirely by the elderly customer's assets. The findings also stated that Johnson's acquaintance, who served as the customer's caretaker, withdrew over \$14 million from their joint account. The findings further stated that Johnson should have raised questions based on the irregularity of the transfer of funds between the accounts, including the size of the transactions and the manner in which the caretaker withdrew money from the joint account before redepositing it in accounts under his sole control. The findings included that the trading in the customer's account generated large capital gain liabilities for Johnson's elderly customer. FINRA found that Johnson made false statements while under oath during his on-the-record testimony about his awareness of expensive gifts the caretaker had given to his sales assistant, and attempted to convince his sales assistant to make false statements during her testimony. **(FINRA Case #2007010251302)**

**Jennifer Anne Jordan (CRD #2814586, Registered Representative, Portland, Oregon)** was fined \$20,000 and suspended from association with any FINRA member in any capacity for two years. The National Adjudicatory Council (NAC) imposed the sanctions following an appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Jordan failed to make required disclosures in research reports and made misleading omissions in communications with the public.

The suspension is in effect from November 2, 2009, through November 1, 2011. **(FINRA Case #2005001919501)**

**Anastas Iliev Kalaidjiev (CRD #5498837, Associate Person, Sacramento, California)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for two years and an additional 90 days; the suspensions shall run consecutively. The fine is due and payable if and when Kalaidjiev's applies to associate with a member firm following his suspension. The sanction was based on findings that Kalaidjiev provided an oral, rather than written, response to requests for information, and failed to provide requested documents. The findings stated that Kalaidjiev failed to disclose material information on his Form U4.

The suspensions are in effect from September 21, 2009, through December 19, 2011. **(FINRA Case #2008013050901)**

**Stuart Williams Kasin (CRD #3105331, Registered Representative, Ashburn, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Kasin consented to the described sanction and to the entry of findings that he borrowed at least \$100,750 from a member firm customer without the firm's prior written approval. The findings stated that the customer withdrew \$50,000 from a variable annuity to loan to Kasin, and Kasin prevented the firm from learning the purpose of the transaction and precluded the firm from supervising it by sending the

withdrawal request directly to the annuity issuer. The findings also stated that the withdrawal form directed the insurance company to send a check to Kasin's personal residential address, which Kasin deposited into his bank account without notifying the firm of the transaction or his involvement. **(FINRA Case #2009016832901)**

**Kelvin Koma (CRD #5327866, Registered Representative, Lincolnwood, Illinois)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Koma consented to the described sanction and to the entry of findings that he wrongfully obtained ATM cards that belonged to customers of his member firm's affiliated bank and used them to make unauthorized withdrawals from the customers' accounts, misappropriating \$2,625 for his own personal use. The findings stated that Koma failed to respond to FINRA requests for information and appear for an on-the-record interview. **(FINRA Case #2008015985501)**

**Paul Allen Kuiper (CRD #1133335, Registered Supervisor, Holland, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for two months. Without admitting or denying the findings, Kuiper consented to the described sanctions and to the entry of findings that, without the customers' knowledge or consent, he forged customers' signatures to periodic payment authorization forms and caused them to be submitted for processing.

The suspension is in effect from October 19, 2009, through December 18, 2009. **(FINRA Case #2008012036101)**

**Christopher Louis Latorra (CRD #4272963, Registered Principal, Jersey City, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Latorra's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Latorra consented to the described sanctions and to the entry of findings that he recommended to customers the purchase of a mutual fund primarily invested in "speculative" to "highly speculative" senior loans. The findings stated that Latorra recommended the transactions without having reasonable grounds for believing that such transactions were suitable for the customers in view of the nature of the accounts and the customers' financial situation, investment objectives and needs. The findings also stated that the recommendations were unsuitable in that the customers were conservative investors who sought safe returns without risk to their principal.

The suspension is in effect from October 5, 2009, through January 4, 2010. **(FINRA Case #2008013792201)**

**Yvonne Linke (CRD #4531694, Registered Representative, Baltimore, Maryland)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Linke consented to the described sanction and to the entry of findings that she failed to respond to FINRA requests for information. **(FINRA Case #2008015556601)**

**Lorraine Leonie Macko (CRD #1937209, Registered Representative, Miami, Florida)** was fined \$6,000 and suspended from association with any FINRA member in any capacity for one year. The fines shall be due and payable upon Macko's return to the securities industry. The sanctions were based on findings that Macko misused her member firm's funds by causing funds to be credited to her personal firm brokerage account and making withdrawals totaling nearly \$5,000 from that account, while failing to timely make deposits corresponding to the posted credits. The findings stated that Macko's account did not have sufficient funds to cover her withdrawals, which her member firm funded. The findings also stated that Macko caused her member firm's books and records to be inaccurate as the false credits were reflected in the firm's books and records.

The suspension is in effect from September 21, 2009, through September 20, 2010. **(FINRA Case #2007009415301)**

**Michael C. Metters (CRD #3124383, Registered Representative, Layton, Utah)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Metters' reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Metters consented to the described sanctions and to the entry of findings that he willfully failed to amend his Form U4 to disclose material information.

The suspension is in effect from October 5, 2009, through January 2, 2010. **(FINRA Case #2008012057801)**

**Christopher Michael Morris (CRD #3140803, Registered Representative, Murrells Inlet, South Carolina)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Morris failed to appear for a FINRA on-the-record interview. **(FINRA Case #2007009430001)**

**Joshua William Moss (CRD #5535804, Associated Person, Atlanta, Georgia)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Moss failed to respond to requests for information. The findings stated that Moss willfully failed to disclose material facts on his Form U4. **(FINRA Case #2008014116901)**

**Samuel James Mugavero Jr. (CRD #2189945, Registered Principal, Bethlehem, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Mugavero consented to the described sanction and to the entry of findings that he borrowed \$10,000 from a firm customer contrary to his firm's written policies prohibiting registered representatives from borrowing money from customers, and he failed to notify the firm about the loan. The findings stated that Mugavero repaid \$1,000 of the loan but \$9,000 remains outstanding. The findings also stated that Mugavero failed to respond to FINRA requests to provide personal bank records. **(FINRA Case #2008014827501)**

**Lisa Ann Tomiko Nouchi (CRD #2367719, Registered Representative, Fairfield, California) and Marc Winters (CRD #4053113, Registered Representative, Chatsworth, California)** were suspended from association with any FINRA member in any capacity for 90 days. Nouchi and Winters were also fined \$10,000 and \$19,882, respectively. The NAC imposed the sanctions following an appeal of an OHO decision. The sanctions were based on findings that Nouchi and Winters caused their member firms' books and records to contain inaccurate information about customers selling Class B mutual fund shares by entering sales charge waivers for those customers that falsely represented that these customers were disabled.

Nouchi's suspension is in effect from October 5, 2009, through January 2, 2010, and Winters' suspension is in effect from September 21, 2009, through December 19, 2009. **(FINRA Cases #E102004083705/E102004083704)**

**Kevin Paul O'Brien (CRD #1782288, Registered Representative, Anderson, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, O'Brien consented to the described sanction and to the entry of findings that he engaged in outside business activities for a customer without providing prompt written notice to his member firm. The findings stated that, while engaged in the outside business activities for his customer, O'Brien transferred \$378,000 between the customer's accounts, using a portion of the funds to pay the customer's legitimate expenses and misappropriating the remaining funds for his own use and benefit. **(FINRA Case #2008015004001)**

**Thomas Wayne O'Keefe (CRD #4715811, Registered Representative, Las Vegas, Nevada)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, O'Keefe consented to the described sanction and to the entry of findings that he took funds that belonged to his member firm's bank affiliate totaling approximately \$14,000 without the bank's permission and consent by disabling the bank's computer system that validated customer account balances and then cashing a \$3,000 check. The findings stated that O'Keefe also raised his cash limit on his bank debit card, posted the funds to his bank checking account and then withdrew funds totaling approximately \$11,000. The findings also stated that O'Keefe failed to respond to FINRA requests for information. **(FINRA Case #2009017258701)**

**Oswald Victor Paredes (CRD #4271043, Registered Representative, Belmont, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Paredes consented to the described sanction and to the entry of findings that he linked his 529 college savings plan accounts to an individual's bank account, transferred \$3,900 from the individual's bank account to the plan accounts, without the bank account holder's authorization or consent, and misappropriated the funds for his personal use. **(FINRA Case #2009018461601)**

**Michael David Reis (CRD #4684384, Registered Representative, Happy Valley, Oregon)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Reis consented to the described sanction and to the entry of findings that he failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008012927501)**

**Kimberly Sue Rutherford (CRD #4800205, Registered Representative, Roanoke, Virginia)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Rutherford consented to the described sanction and to the entry of findings that, in connection with the sale of an annuity contract, she misrepresented to a customer that he would receive a higher return rate than what the terms of the policy offered. The findings stated that Rutherford provided the customer with falsified annual account statements and an altered annuity contract that reflected a higher return rate, when in fact the customer was receiving a lower rate of return. The findings also stated that Rutherford falsified an annual account statement by increasing the account balance by over \$5,000 in order to mislead the customer into believing that he received additional earnings as a result of the higher rate of return, and deposited over \$5,000 of her own personal funds into the customer's account to compensate him for the disparity in return rates. The findings also included that Rutherford, after agreeing to reimburse another customer for any early withdrawal penalties in connection with transferring money to his annuity, falsified an annuity confirmation statement wherein the account balance was increased to cover a surrender charge that had not been credited after the customer complained that he was charged a penalty for early withdrawal. **(FINRA Case #2008012477401)**

**Scott Allan Shapiro (CRD #2687108, Registered Principal, Syosset, New York)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Shapiro consented to the described sanction and to the entry of findings that he caused his member firm to charge a \$100 service fee to approximately 3,000 customers who had not been provided with prior written notice of the service fee. The findings stated that Shapiro willfully failed to amend his Form U4 and disclose material information on his Form U4. The findings also stated that Shapiro failed to respond to FINRA requests for information. **(FINRA Case #2007009179401)**

**Nicos Achillea Stephanou (CRD #4397375, Registered Representative, Nicosia, Cyprus)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Stephanou consented to the described sanction and to the entry of findings that he willfully and knowingly, directly or indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, and of the facilities of national securities exchanges, in connection with the purchase and sale of securities, used and employed manipulative and deceptive devices and contrivances by employing devices, schemes and artifices to defraud; making untrue statements of material facts and omitting to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and engaging



in acts, practices and courses of business which operated and would operate as a fraud or deceit upon persons. The findings stated that Stephanou engaged in inside trading by purchasing shares of a company's common stock based on material nonpublic information. **(FINRA Case #2009017510801)**

**Robert Wesley Stout (CRD #1356443, Registered Principal, Arlington, Texas)** submitted an Offer of Settlement in which he was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for 20 business days. Without admitting or denying the allegations, Stout consented to the described sanctions and to the entry of findings that he failed to establish, maintain and enforce adequate written supervisory procedures to ensure compliance with FINRA rules and with SEC and Federal Reserve Board rules and regulations. The findings stated that Stout failed to ensure that firm customers fully paid for cash transactions within the time allotted by the Federal Reserve Board Regulation T, in that the firm failed to cancel the transactions, liquidate the transactions or freeze the accounts when customers failed to make full payment on purchase transactions in cash accounts within five full business days. The findings also stated that Stout failed to review, initial and maintain daily purchase and sales blotters at the main office; failed to make the determination to implement heightened supervision for individuals who met its written supervisory procedures requiring a determination; and failed to establish compliance procedures for setting commissions and markups, and failed to establish supervisory procedures to detect excessive commissions and markups. The findings also included that Stout failed to ensure that an individual actively engaged in managing the firm's securities business was registered as a principal or in any other capacity.

FINRA found that Stout failed to maintain firm records in an easily accessible place and failed to promptly produce the records. FINRA also found that Stout failed to respond to FINRA requests to produce new account forms, customer confirmations and order memoranda because they were maintained at a branch office, thereby causing his firm to be in violation of SEC rules.

The suspension was in effect from October 19, 2009, through November 13, 2009. **(FINRA Case #E062005003202)**

**Gary Steven Swiman (CRD #2637243, Registered Representative, Short Hills, New Jersey)** submitted an Offer of Settlement in which he was suspended from association with any FINRA member in any capacity for two years. In light of Swiman's financial status, no fine was imposed. Without admitting or denying the allegations, Swiman consented to the described sanction and to the entry of findings that he improperly obtained approximately \$607.21 from his member firm by submitting inaccurate travel and expenses reports and seeking reimbursement for expenses not related to firm business. Swiman subsequently reimbursed the firm. The findings stated that by submitting the inaccurate expense reports, Swiman caused his member firm to maintain inaccurate books and records.

The suspension is in effect from October 5, 2009, through October 4, 2011. **(FINRA Case #2008012094801)**

**Evan Taber (CRD #1892751, Registered Representative, Plantation, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 60 days. Without admitting or denying the findings, Taber consented to the described sanctions and to the entry of findings that he exercised discretion in public customers' accounts without the customers' prior written authorization and without his member firm's acceptance of the accounts as discretionary. The findings stated that Taber's firm prohibits discretionary accounts, providing an exception for family members only; none of the customers were related to Taber.

The suspension is in effect from October 5, 2009, through December 3, 2009. **(FINRA Case #2008011565201)**

**Mitchell Ted Toland (CRD #2038802, Registered Representative, New York, New York)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 45 days. Without admitting or denying the allegations, Toland consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension is in effect from October 19, 2009, through December 2, 2009. **(FINRA Case #2007009978502)**

**Louis Tomasello III (CRD #2260987, Registered Representative, Salem, New Hampshire)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Tomasello consented to the described sanction and to the entry of findings that he misappropriated \$5,716 from his member firm by submitting false and misleading invoices and expense reports to the firm and improperly seeking and receiving reimbursement for bogus charges by claiming them as legitimate business expenses. The findings stated that by submitting the false and misleading invoices and expense reports, Tomasello caused his member firm to have false and inaccurate books and records. The findings also stated that Tomasello provided gifts in excess of \$100 to registered representatives at another firm. The findings included that Tomasello provided false testimony and failed to provide requested documents to FINRA staff. **(FINRA Case #2006004832901)**

**Jeffrey Robert Unruh (CRD #2758509, Registered Representative, Phoenixville, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Unruh's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Unruh consented to the described sanctions and to the entry of findings that he forged a customer's signature on an acknowledgment form. The findings stated that after flagging the order for shares of a bond fund because they did not match the primary investment objective on the new customer's profile form, Unruh's member firm instructed him to obtain a signed letter from the customer acknowledging that she understood that the bond fund that Unruh

recommended was contrary to her conservative risk and capital preservation investment objectives specified in her new account documents. The findings also stated that instead of obtaining the requested acknowledgement letter from his customer, Unruh drafted a letter, signed his customer's name and submitted it to his member firm. The findings included that Unruh offered a false explanation in response to a FINRA request for information.

The suspension is in effect from October 5, 2009, through April 4, 2011. (**FINRA Case #2008014322401**)

**Michael Lon Vines (CRD #2552188, Registered Principal, Charlotte, North Carolina)** was fined \$10,000 and suspended from association with any FINRA member in any principal capacity for one year after the NAC found that Vines approved the falsification of IRA adoption agreements, in violation of NASD Rule 2110. Although neither party appealed the OHO decision, the NAC called the matter for discretionary review to examine the sanctions imposed. The NAC's review resulted in higher sanctions than those imposed by the Hearing Panel because the NAC concluded that Vines' misconduct was reckless and his decision to leave the falsified forms in the customers' files was tantamount to concealment.

The suspension is in effect from October 19, 2009, through October 19, 2010. (**FINRA Case #2006005565401**)

**Michael Gene Walker (CRD #4010742, Registered Representative, Spring, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Walker's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Walker consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

The suspension is in effect from September 21, 2009, through March 20, 2010. (**FINRA Case #2008014921201**)

**Ronen Zakai (CRD #4244908, Registered Representative, Hewlett, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the findings, Zakai consented to the described sanctions and to the entry of findings that he borrowed \$16,000 from one of his member firm's customers. The findings stated that Zakai's member firm did not know of or otherwise approve of the loan, and moreover, the firm's policy prohibited such loans.

The suspension is in effect from October 19, 2009, through November 17, 2009. (**FINRA Case #2007010628701**)

## Individual Fined

**Alan Frank Pacella (CRD #1689031, Registered Representative, Boca Raton, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, Pacella consented to the described sanctions and to the entry of findings that he participated in the sale of unregistered securities. The findings stated that Pacella, before entering sales orders, relied on his member firm's compliance department to review whether the shares were freely tradable. The findings also stated that the compliance department conducted its tradability review in the ordinary course of business and incorrectly approved the securities for public resale, even though the shares were restricted. The findings also included that Pacella had or should have had the company's Articles of Incorporation and press release, thereby allowing him to determine that the securities were not registered for public sale and not subject to an exemption. **(FINRA Case #2007009934702)**

## Decision Issued

The OHO issued the following decision, which has been appealed to or called for review by the NAC as of September 30, 2009. The NAC may increase, decrease, modify or reverse the findings and sanctions imposed in the decision. Initial decisions where the time for appeal has not yet expired will be reported in future FINRA Disciplinary Action reports.

**Patrick John Heatley (CRD #5465129, Registered Representative, Lombard, Illinois)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for one year. The fine is payable when Heatley seeks to reenter the securities industry. The sanctions were based on findings that Heatley willfully failed to disclose material information on his Form U4.

This decision has been called for review by the NAC. The sanctions are not in effect pending consideration of the review. **(FINRA Case #2008012122001)**

## Complaints Filed

FINRA issued the following complaints. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Gary Thomas Armitage (CRD #1041078, Registered Principal, Healdsburg, California)** was named as a respondent in a FINRA complaint alleging that he engaged in unauthorized transactions in a customer's account without obtaining the customer's prior authorization. The complaint alleges that Armitage participated in private securities transactions and failed to provide the firm with prior written notice of the transactions. The complaint also alleges that Armitage failed to respond to FINRA requests for information. **(FINRA Case #2008014319901)**

**William Frederick Brahe Jr. (CRD #3195240, Registered Representative, East Meadow, New York)** was named as a respondent in a FINRA complaint alleging that he converted approximately \$1,078,400 from customers at a bank affiliate of his member firm. The complaint alleges that Brahe, without permission or authority, wrongfully withdrew approximately \$1,078,400 from the customers' accounts and deposited the money into his own account or accounts for his own use and benefit. **(FINRA Case #2008014231001)**

**Bruce Edward Hammonds (CRD #5030215, Registered Representative, Boerne, Texas)** was named as a respondent in a FINRA complaint alleging that he fraudulently induced member firm customers and other individuals to liquidate their accounts and invest in excess of \$1 million in a Ponzi scheme. The complaint alleges that rather than investing the money he received from customers and investors in securities or futures contracts as he represented, Hammonds misappropriated the customers' and investors' funds, using the funds to pay for personal expenses as well as to pay investors in the Ponzi scheme under the guise that they were receiving returns on their investments. The complaint further alleges that, in furtherance of the scheme to defraud, Hammonds provided customers and investors with fictitious account statements reporting growth in their investments. **(FINRA Case #2008013990501)**

**Conrad Michael Lawrence (CRD #4467366, Registered Representative, Wichita, Kansas)** was named as a respondent in a FINRA complaint alleging that he engaged in a private securities transaction and received a commission without providing prior written notice to his member firm and obtaining the firm's written approval. The complaint alleges that Lawrence, in connection with the sale of an installment plan contract issued by a purported charitable organization, negligently misrepresented to a customer that he would receive a tax deduction in connection with the investment. The complaint also alleges that Lawrence recommended the installment plan contract without having a reasonable basis for the recommendation and that he did not perform a reasonable investigation concerning the propriety of the charitable organization or the installment plan contracts it offered. **(FINRA Case #2009019042201)**

**Kevin Paul McCaffrey (CRD #4130994, Registered Representative, Grand Rapids, Michigan)** was named as a respondent in a FINRA complaint alleging that he signed a customer's name to a new fixed annuity application and a Substantially Equal Periodic Payments form without her knowledge or consent, and then submitted them to his firm for processing. The complaint alleges that McCaffrey sold securities from the customer's account without her knowledge or consent. **(FINRA Case #2007011324701)**

**Shaniqua N. White (CRD #5337573, Registered Representative, Bronx, New York)** was named as a respondent in a FINRA complaint alleging that she converted approximately \$1,800 from a customer. The complaint alleges that White created a temporary ATM card in the customer's name and, without the customer's permission or consent, used the unauthorized ATM card to withdraw approximately \$1,800 from the customer's bank account for her own use and benefit. The complaint also alleges that White failed to respond to FINRA requests for information and appear for an on-the-record interview. **(FINRA Case #2008015003001)**

**Firms Expelled for Failure to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

**Eastbrook Capital Group LLC**  
New York, New York  
(September 23, 2009)

**SBK-Brooks Investment Corp.**  
Cleveland, Ohio  
(September 1, 2009)

**Firms Suspended for Failure to Supply Financial Information Pursuant to FINRA Rule 9552**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Global Crown Capital, LLC**  
San Francisco, California  
(September 8, 2009)

**Global Crown Capital, LLC**  
San Francisco, California  
(September 16, 2009)

**MacMar Investment Corporation**  
Akron, Ohio  
(May 20, 2009 – September 9, 2009)

**SBK-Brooks Investment Corp.**  
Cleveland, Ohio  
(September 1, 2009)

**Firm Cancelled for Failure to Pay Fees Pursuant to FINRA Rule 9553**

**Crossland Capital Partners LLC**  
Santa Monica, California  
(September 11, 2009)

**Firm Suspended for Failure to Pay Arbitration Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Maxxtrade, Inc.**  
Lexington, Kentucky  
(September 28, 2009 – October 14, 2009)

**Firms Suspended for Failure to Pay Annual Assessment Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Dillon Scott Securities, Inc.**  
San Francisco, California  
(September 2, 2009)

**Emerald Investments, Inc.**  
New York, New York  
(September 28, 2009 – October 14, 2009)

**Merrimac Corporation Securities, Inc.**  
Altamonte Springs, Florida  
(September 2, 2009 – September 18, 2009)

**Midas Securities, LLC**  
Anaheim, California  
(September 2, 2009 – September 18, 2009)

**Sinova Capital, LLC**  
Seattle, Washington  
(September 2, 2009)

**WG Trading Company Limited Partnership**  
Greenwich, Connecticut  
(September 2, 2009)



**Firm Suspended for Failing to Pay  
Arbitration Awards Pursuant to FINRA  
Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Global Crown Capital, LLC**  
San Francisco, California  
(September 10, 2009)

**Individual Revoked for Failing to Pay  
Fines and/or Costs Pursuant to FINRA  
Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

**Jerrold Robin Sexton**  
Escondido, California  
(June 16, 2009 – September 21, 2009)

**Individuals Barred Pursuant to  
FINRA Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

**Melissa Anne Cabeza Debaca**  
Kingman, Arizona  
(September 8, 2009)

**Karla Flores-Ybaceta**  
Long Beach, California  
(September 14, 2009)

**Patricia S. McDonald**  
Brooklyn, New York  
(September 23, 2009)

**Howard Lee Smithson**  
Atlanta, Georgia  
(September 16, 2009)

**Angela Monique Thomas**  
Springfield, Massachusetts  
(September 28, 2009)

**Mark Shen-Feng Wu**  
Hercules, California  
(September 30, 2009)

**Individuals Suspended Pursuant to  
FINRA Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Michael S. Berteletti**  
Staten Island, New York  
(September 28, 2009)

**Christopher Wayne Chenevert**  
Glendale, Arizona  
(September 10, 2009)

**Terry Joe Kennedy, aka Sharyn West**  
Las Vegas, Nevada  
(September 25, 2009)

**Gregg Thomas Rennie**  
Squantum, Massachusetts  
(September 17, 2009)

**Pamela J. Sullivan**  
Signal Hill, California  
(September 28, 2009)

**Individuals Suspended for Failure to  
Comply with an Arbitration Award or  
Settlement Agreement Pursuant to  
FINRA Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**John Michael Andrews**  
Potomac, Maryland  
(September 11, 2009)

**Willie James Brice Jr.**  
Deerfield Beach, Florida  
(September 4, 2009)

**Peter Cowhig Dolan**  
Woburn, Massachusetts  
(September 4, 2009)

**Peter Raad Fader**  
San Francisco, California  
(January 14, 2008 – September 1, 2009)

**Rani Tarek Jarkas**  
San Francisco, California  
(September 10, 2009)

**John Munsuk Lee**  
Fort Lee, New Jersey  
(September 4, 2009)

**Scott Allan Shapiro**  
Syosset, New York  
(September 11, 2009)

**Vladimir B. Victor**  
Cleveland Heights, Ohio  
(September 14, 2009 – October 2, 2009)

**Jeremy Anthony Wisniewski**  
Lynbrook, New York  
(September 11, 2009)

## **FINRA Announces Agreements with Three Additional Firms to Settle Auction Rate Securities Violations**

### **Northwestern Mutual Investment Services, City Securities, Fifth Third Securities Settlements Include Total Fines of \$600,000, Repurchase of Over \$128 Million in ARS Holdings**

The Financial Industry Regulatory Authority (FINRA) announced that it has entered into final settlements with three additional firms to settle charges relating to the sale of auction rate securities (ARS) that became illiquid when auctions froze in February 2008. To date, FINRA has concluded final settlements with 12 firms, imposing a total of \$3.2 million in fines and guaranteeing the return of more than \$1.3 billion to investors. Investigations continue at a number of additional firms.

The settlements announced today are with Northwestern Mutual Investment Services, LLC, of Milwaukee, which was fined \$200,000; City Securities Corporation, of Indianapolis, which was fined \$250,000; and Fifth Third Securities, Inc., of Cincinnati, which was fined \$150,000.

All three firms agreed to initiate or complete offers to repurchase ARS sold to their customers where the auctions for the ARS had failed—approximately \$103 million for Northwestern Mutual, about \$13.1 million for City Securities and approximately \$11.9 million for Fifth Third Securities.

“The failure of firms to adequately disclose the risks associated with auction rate securities left customers unprepared for the failure of the auction market last year and the resulting consequences,” said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. “As with our previous ARS settlements, FINRA’s first priority has been to ensure investor access to the money they had invested in ARS. We are gratified that these firms agreed to initiate or complete offers to buy back frozen ARS from their customers.”

FINRA’s investigation found that each firm sold ARS using advertising, marketing materials or communications with its sales force that were not fair and balanced, or that failed to contain adequate disclosure of the risks of ARS, and therefore did not provide a sound basis for investors to evaluate the benefits and risks of purchasing ARS.

In particular, the firms failed to adequately disclose to customers the potential for ARS auctions to fail and the consequences of such failures. FINRA’s investigation also found evidence that each firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with the securities laws and FINRA rules with respect to the marketing and sale of ARS.

In the actions announced today, the firms agreed to a comprehensive settlement plan that has been applied in FINRA’s previous ARS settlements. That plan includes several elements, including offers to repurchase at par ARS that individual investors and some institutions purchased between May 31, 2006, and Feb. 28, 2008. The firms have also agreed to make whole individual investors who sold ARS below par after Feb. 28, 2008.

In addition to individual retail ARS investors, the buy-back offers include non-profit charitable organizations and religious corporations or entities, trusts, corporate trusts, corporations, pension plans, educational institutions, incorporated non-profit organizations, limited liability companies, limited partnerships, non-public companies, partnerships, personal holding companies and unincorporated associations that made individual ARS purchases and whose account value did not exceed \$10 million.

FINRA noted in the settlement with Northwestern Mutual Investment Services that the firm received additional credit for initiating its own offers in September 2008 to buy back ARS from all customer accounts, irrespective of whether the ARS were purchased through the firm, and including positions that advisory clients of an investment advisory affiliate held. The firm has completed its repurchases.

As part of the settlement plan, the firms also agreed to participate in a special FINRA-administered arbitration program to resolve investor claims for consequential damages—that is, damages investors may have suffered from their inability to access funds invested in ARS. The program provides for expedited arbitration proceedings paid for by the firm. The participating firm may not contest liability related to the illiquidity of the ARS holdings, nor to the ARS sales, including any claims of misrepresentations or omissions by the firm’s sales agents. Additional information can be found at [www.finra.org/ars](http://www.finra.org/ars).

In concluding these settlements, the firms neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.

## **FINRA Panel Bars New Jersey Broker for Misappropriating Funds From 97-Year-Old Widow’s Charitable Foundation**

### **Broker’s Wife Suspended and Fined for Related Misconduct**

A Financial Industry Regulatory Authority (FINRA) Hearing Panel has barred John Edward Mullins, a former registered representative with Morgan Stanley DW, Inc., for misappropriating \$11,156.47 from the charitable foundation of a 97-year old nursing home resident and widow who was his client for more than 20 years.

The panel also sanctioned Mullins’ wife, Kathleen Maria Mullins, also a former registered representative with Morgan Stanley—giving her a nine-month suspension and a \$20,000 fine for borrowing \$100,000 from the same client without her brokerage firm’s approval. Kathleen Mullins also made material misstatements on compliance questionnaires concerning her official role in the charitable foundation and receipt of the loan. The hearing panel is also requiring Kathleen Mullins to re-qualify by examination before she can be registered in any capacity in the securities industry.

The hearing panel noted that in early April 2006, just after the elderly widow fell ill and was under round-the-clock nursing care, John Mullins “embarked on his misuse and conversion of the foundation’s funds.” The hearing panel determined that within three months of the customer’s illness, John Mullins misappropriated \$4,000 to pay for his and his wife’s vacation at the Four Seasons in London. The hearing panel also found that John Mullins misappropriated \$5,500 to reduce his personal bill at Boyds of

Philadelphia, an upscale Philadelphia clothing store, and \$1,656.47 to buy 23 bottles of wine from Morton's Restaurant in Atlantic City, which he stored in his personal wine locker at the steakhouse.

Unless the matter is appealed to the NAC, or is called for review by the NAC, the hearing panel's decision becomes final after 45 days.

### **FINRA Fines Citigroup Global Markets, UBS and Deutsche Bank \$425,000, Orders Customer Restitution for Supervisory Failures in Vonage IPO**

#### **Violations Centered on Outsourcing of Communications with Customers; Customer Restitution Payments Could Reach \$420,000**

FINRA announced that it has fined Citigroup Global Markets, UBS Securities and Deutsche Bank Securities a total of \$425,000—and ordered the firms to make payments to customers that could total \$420,000—in connection with the firms' failure to adequately supervise communications with their customers in the initial public offering (IPO) of Vonage, LLC in May 2006.

Citigroup was fined \$175,000 and ordered to pay a maximum of \$250,000 to 284 potentially eligible customers; UBS was fined \$150,000 and ordered to pay a maximum of \$118,000 to 126 potentially eligible customers; and, Deutsche Bank was fined \$100,000 and ordered to pay a maximum of \$52,000 to 59 potentially eligible customers.

FINRA found that each of the firms failed to establish adequate systems and procedures to supervise the outsourcing of communications with customers about the sale of securities in the Vonage IPO. Each of the firms was a lead underwriter for the Vonage IPO, which included a directed share program (DSP) under which the firms sold approximately 4.2 million shares to Vonage customers through accounts the customers had opened at the firms.

Because of the large number of expected DSP participants, Vonage and the three underwriting firms agreed that an outside company would design and administer a Web site for DSP participants. Communications with customers of the firms about the sale of Vonage IPO securities were to occur through that Web site. These communications included acceptance of offers to purchase the IPO shares, information about share allocations and communications about money the customers owed to the firms for the allocated shares. FINRA found that because of the firms' supervisory failures, when a problem occurred at the outside company that caused numerous customers to receive incorrect communications, the firms were unable to respond satisfactorily.

"Communicating with customers about the sale of shares in a public offering is an important brokerage firm activity and must be supervised effectively by firms," said Susan L. Merrill, Executive Vice President and Chief of Enforcement. "Supervisory obligations apply not only to brokerage activities undertaken directly by firms, but also to those activities when they are outsourced to other parties. In this case, each

of the firms failed to take effective action to ensure that important communications with customers about the sale of IPO shares were properly supervised, and they failed to take sufficient action to determine the cause and extent of the problem once they learned of it.”

FINRA also found that, even though each of the firms had written procedures for both directed share programs and for outsourcing, the firms did not follow those procedures.

As a consequence of the firms’ failures, when an error by an employee of the outside company—who disabled a server when the allocation program was run—resulted in certain customers receiving communications stating that they had not received IPO allocations when in fact they had, the firms were unable to take prompt and effective action to respond to the problem. By the time some customers learned several days later that they had been allocated shares, the price of Vonage stock had declined significantly from the initial IPO price. Nevertheless, those customers were required to pay the higher IPO price for their shares and incurred losses when they later sold those shares.

The restitution payments that FINRA ordered will compensate the customers for the difference between the \$17 per share IPO price they paid and the lower price of Vonage stock at the time they learned that they had been allocated shares. Pursuant to the terms of the settlement, the firms will notify eligible customers.

FINRA found that when the incorrect communications went out, none of the firms knew what information had been communicated to their customers about IPO allocations and were unable to determine how many customers had received incorrect communications. In fact, a number of months had passed before the firms were able to learn the cause of the problem, and then only when the outside company reported the results of its investigation. Responding to the problem promptly was important because customers were unaware of their IPO allocations at a time when the price of Vonage stock was declining significantly. The firms also failed to ensure that FINRA had the same access to the work of the outside company that FINRA would have had if the firms had performed the work themselves. In addition, the firms were unable to provide FINRA with certain information, hampering FINRA’s ability to investigate the matter.

More than 7,000 accounts were opened at Citigroup by Vonage customers to participate in the DSP, approximately 3,000 accounts were opened at UBS, and approximately 1,370 accounts were opened at Deutsche Bank. Citigroup sold approximately 2.5 million shares in the program, UBS sold approximately 1.2 million shares and Deutsche Bank sold approximately 500,000 shares.

In settling each of these matters, none of the firms admitted nor denied the charges, but consented to the entry of FINRA’s findings.